

**Docket Nos.:** 00-0259, 00-0395, 00-0461  
**Meeting Date:** 07-05-00 Pre-Bench  
**Deadline:** 05-02-01 in 00-0461; N/A in others

## MEMORANDUM

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**TO:** The Commission

**FROM:** Larry Jones, Hearing Examiner

**DATE:** June 30, 2000

**SUBJECT:** 00-0395 - Central Illinois Public Service Company and Union Electric Company ("Ameren") -  
  
Petition for approval of revisions to market value tariff, Rider MV.  
  
00-0259 - Commonwealth Edison Company ("ComEd") -  
  
Petition for approval of market-based alternative tariff.  
  
00-0461 - Illinois Power Company ("IP") -  
  
Proposed new rider MVI.

**COMMENT:** Scheduling issues in these dockets, which involve filings by ComEd, Ameren and IP that propose and/or implement market index based methodologies for determining market value, were discussed at the Commission's meetings on June 20, 21 and 27, and are on the agenda for the Commission's July 5 pre-bench meeting. This memorandum discusses scheduling and uniformity issues and options in these cases.

**RECOMMENDATION:** That the scheduling approach (including the overall timeframe) proposed jointly by the parties in Docket 00-0395 be approved; that direction be given to utilize a type of schedule (and overall timeframe) in Docket 00-0461 similar to that proposed in Docket 00-0395; and that the parties in these two cases be directed to address uniformity issues relative to the market index based market value tariffs authorized and implemented in Docket 00-0259.

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## **Dockets Proposing and/or Implementing Market Index Based Market Value Tariffs**

### *ComEd Tariffs in 00-0259*

As the Commission is aware, in the ComEd case, Docket No. 00-0259, an interim order was entered on April 27. That order authorized ComEd to file tariffs incorporating a market index based methodology for purposes of determining market value ("MV") under Section 16-112 of the Public Utilities Act. Those tariffs were in fact filed, and they became effective May 1, in time for the ComEd summer billing period which runs from June through September. In the ComEd interim order, the Commission also directed parties to actively participate in Commission sponsored workshops to be scheduled by the Commission. These workshops in the ComEd matter are intended to consider future modifications and improvements to the index-based market value methodology, and to result in recommendations to the Commission for possible modification to ComEd's index-based tariff.

From a scheduling standpoint, I believe the intent was for the workshops to be held in the fall of 2000, following the completion of the ComEd summer billing season. To the extent there are still contested issues after completion of the workshops, these issues would be the subject of testimony filings and evidentiary hearings in early 2001, followed by entry of a Commission order prior to the summer of 2001.

### *Ameren Proposal in 00-0395*

As explained more fully in memoranda dated June 8, June 20 and June 26, Central Illinois Public Service Company and Union Electric Company ("Ameren") filed a petition on June 1, 2000 requesting the Commission "to approve changes to each company's market value tariff rider ("Rider MV") that would permit each company to change the method of calculating market value beginning in calendar year 2001." Ameren "propose[s] to base the calculation of market value on information relating to applicable market traded contracts in lieu of the neutral fact finder ("NFF") values currently reflected in each company's Rider MV." Ameren states that its market value proposal is patterned after the ComEd program approved in an Interim Order in docket 00-0259 on April 27.

At a prehearing conference held on June 19 in the Ameren case, the parties agreed to a proposed schedule which contemplates discovery, direct and responsive testimony filings in August, two days of hearings in September, initial and reply briefs in October, a HEPO, exceptions and replies, followed by a final order from the Commission by January 1. No ruling on this proposed schedule has been issued. A status hearing is scheduled for July 12, which is subsequent to the Commission meeting dates of July 5-6, and is the same date as the prehearing in the IP case in docket 00-0461.

*IP Proposal in 00-0461*

By means of a tariff filing, Illinois Power Company ("IP") also proposes to establish a new market-based tariff which would replace the NFF process currently in use. IP's filing was suspended by the Commission on June 27. IP wants approval of its proposal by January 1. A prehearing has been scheduled for July 12. As noted above, a status hearing in the Ameren case has been scheduled for the same day. A preliminary review of the IP filing indicates that in many respects it is similar to the Ameren proposal and to the ComEd tariff.

**Scheduling/Uniformity Issues***Scheduling Options*

At the Commission meetings on June 20, 21 and 27, one or more Commissioners expressed concerns as to whether different schedules in the three cases would result in a lack of uniformity in any MV tariffs implemented by the three utilities.

Certain scheduling options were discussed in an effort to address this concern. One option would put the ComEd and IP schedules in line with the Ameren schedule. As noted above, the Ameren schedule looks towards an order by January 1. This scenario would involve advancing the current ComEd scheduling plan.

A second scenario would defer formal proceedings in the Ameren and IP cases until early 2001 to coincide with the 2001 stage of the ComEd proceeding if such a stage is needed in ComEd. This plan would be designed to result in an order or orders, and tariffs in place, prior to the summer period of 2001.

A third scheduling option, which is discussed more fully below, would allow Ameren and IP to go forward at this time under a scheduling approach consistent with that proposed by the parties in the Ameren case, while continuing with the ComEd scheduling plan contemplated in the interim order.

*Other Considerations*

I would offer one other comment regarding the Commission's ability to achieve uniformity on this issue. Regardless of how desirable uniformity may be, any of these utilities can veto such a result because under Section 16-112(m), the Commission may propose, *but may not impose*, modifications to a utility's market index based tariff proposal. That section states, in part, "The Commission *may approve or reject, or propose modifications* to, any tariff providing for the determination of market value that has been proposed by an electric utility pursuant to subsection (a) of this Section, *but shall not have the power to otherwise order the electric utility to implement a modified tariff* or to place into effect any tariff for the determination of market value other than

one incorporating the neutral fact-finder procedure set forth in this Section.” (emphasis added)

## **Recommendation**

It is my recommendation that the scheduling approach identified as the “third scheduling option” above be used. I believe this option will satisfactorily address the Commission’s concerns regarding uniformity, while (1) allowing Ameren and IP to go forward at this time under a schedule which allows for an order by January 1, and (2) continuing with the ComEd scheduling plan contemplated in the interim order.

As noted above, ComEd’s *existing* market index based program is already up and running by virtue of the April 27 Order and the tariffs filed May 1. Further, the Ameren proposal is directly modeled on the existing ComEd program, and the IP proposal appears to have many similarities. Consequently, it should not be difficult to make sure the record developed in the Ameren and IP cases will give the Commission the option of ordering uniformity relative to the previously approved (and currently effective) ComEd program if the Commission ultimately decides to do so. Also, there are procedural mechanisms, such as sunset provisions, by which the tariffs approved for Ameren and IP can be revisited if the proceeding in the ComEd docket produces changes in the ComEd tariffs in 2001 that result in a lack of uniformity relative to Ameren and IP.

Under this kind of scheduling arrangement, the workshops could be held in the ComEd case. Also, the parties in that docket would have the opportunity to review the actual experience from the summer 2000 season in evaluating the existing ComEd market index based tariff. As noted above, the summer period for ComEd runs from June through September. This information could be very useful in the fall workshops and early 2001 hearings if formal proceedings are needed.

Accordingly, it recommended that the scheduling approach (including the overall timeframe) jointly proposed by the parties in Docket 00-0395 be approved; that direction be given in Docket 00-0461 to implement a scheduling approach (including the overall timeframe) similar to that proposed in Docket 00-0395; and that the parties in these two cases be directed to address uniformity issues relative to the market index based market value tariffs authorized and implemented in Docket 00-0259.

LMJ/lw